

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

TEAL PEAK CAPITAL, LLC;

Plaintiff,

v.

ALAN BRAM GOLDMAN;

Defendants.

Civil No. 3:20-cv-01747 (PAD)

**BREACH OF CONTRACT; SPECIFIC
PERFORMANCE OF CONTRACT;
REIMBURSEMENT OF FUNDS, COSTS
AND EXPENSES**

MOTION FOR SERVICE OF SUMMONS BY PUBLICATION

TO THE HONORABLE COURT:

COMES NOW, Plaintiff **Teal Peak Capital, LLC** (“TPC” and/or “Plaintiff”) through the undersigned attorneys, and respectfully states and prays as follows:

1. On December 24, 2020, TPC filed the instant *Complaint* against defendant Alan Bram Goldman (“Bram-Goldman”). *See, Docket No. 1.*

2. On December 28, 2020, this Honorable Court issued summons as to Defendants. *See, Docket No. 3.*

3. On December 29, 2020, Bram-Goldman was attempted to be personally served with summon, as established by the proof of service filed with this Honorable Court, at 1014 Terrace Street, Montpelier, Vermont, 05602. *See, Exhibit A*, Sworn Statement of Mark Schwartz, as to efforts made to serve defendant Bram-Goldman.

4. On December 30, 2020, there was a second attempt to serve the defendant, Bram-Goldman, at 1014 Terrace Street, Montpelier, Vermont, 05602, no one answered the door nor was Bram-Goldman located. *See, Exhibit A.*

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5. On December 31, 2020, there was a third attempt to serve the defendant, Bram-Goldman at 1014 Terrace Street, Montpelier, Vermont, 05602 but no one answered the door. On this occasion, the process servicer spoke to a neighbor of the residence who advised that the defendant Bram-Goldman was not answering the door as of this moment, likely because of COVID-19. He had no additional information of the whereabouts of the defendant, Bram-Goldman. *See, Exhibit A.*

6. On January 7, 2021, there was a fourth attempt to serve defendant, Bram-Goldman at 190 Northwood Drive, Building D, #9, East Montpelier, Vermont 00567. On this occasion, still, there was no response on the door and defendant Bram-Goldman was not located at the property. There was a sign on the door for ABG Property Management, and it stated that per COVID-19 policy to call Allan (802)-229-1236, the process servicer called but no one answered the phone. The property manager of said address advised that the defendant, Bram-Goldman, spent no time in the office and that the best way to get a hold of him was calling him. *See, Exhibit A.*

7. TPC very respectfully informs that the personal service of process has not been completed upon defendant Bram-Goldman, despite the attempts that have been made to locate him as evidenced by the sworn statement prepared by the process servicer.

8. Specifically, the service of process has not been completed upon defendant Bram-Goldman, since he lives in the United States of America in 1014 Terrace St., Montpelier, Vermont 05602, USA. *See, Exhibit A.*

9. TPC has a valid cause of action against defendant Bram-Goldman for which relief can be granted as evidenced by the averments of the *Complaint*.

10. Defendant Bram-Goldman is a necessary, a legitimate, and an appropriate party in the instant case.

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11. Rule 4(e)(1) of the Federal Rules of Civil Procedure mandates that "... an individual... may be served in a judicial district of the United States by: (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made...".

12. Rule 4.6(a) of the Puerto Rico Rules of Civil Procedure ("Rule 4.6") provides as follows:

The court shall issue an order providing for a summons by publication **when the person to be served is outside of Puerto Rico** or if in Puerto Rico, cannot be located although pertinent attempts have been made to locate him/her, or when the person goes into hiding to avoid being served, or if it is a foreign corporation with no resident agent, and it is proved to the satisfaction of the court through an affidavit stating the steps taken, and said statement or sworn complaint filed states that justifies the granting of some relief against the person to be served or that said person is the proper party in the suit action. The return of process, unexecuted, shall not be a prerequisite for an order for service by publication. *See Rodriguez Reyes v. BTB Corp.*, 2015 WL 3890271, Slip Copy (2015) and P.R. Stat. Ann. Tit. 32 Ap. V, Rule 4.6(a).

13. TPC very respectfully states that in this case TPC has made necessary and good faith efforts to serve defendant Alan Bram Goldman in the present case. Said efforts have been unsuccessful as to said defendant.

14. For the above reasons, TPC very respectfully moves this Honorable Court for an order directing service by publication upon defendant Alan Bram Goldman.

15. Personal service upon said defendant is not practicable and has not been possible therefore service by publication is necessary. For such purpose and the Honorable Court's convenience, TPC hereby attaches the proposed summons by publication and the proposed order for summons by publication that would be published in a daily newspaper of Puerto Rico as to defendant Alan Bram Goldman.

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WHEREFORE, TPC, respectfully requests this Honorable Court to allow summons by publication of the instant *Complaint* as to defendant Alan Bram Goldman, in accordance with Rule 4.6 and/or Rule 4.7 of Puerto Rico's Rules of Civil Procedure.

CERTIFICATE OF SERVICE: We hereby certify that on this same date the foregoing motion was filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys and participants of record and to Defendant's last known address at 1014 Terrace St., Montpelier, Vermont, USA, 05602.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 26th of January 2021.

Ferraiuoli LLC

Attorneys for TPC
P.O. Box 195168
San Juan, P.R. 00919-5168
Tel.: 787.766.7000
Fax: 787.766.7001

/s/ Jean G. Vidal-Font

Jean G. Vidal-Font
USDC-PR No. 227811
Email: jvidal@ferraiuoli.com